

Violations of the Stormwater Ordinance



Costs the City Money



Threatens Health



Safety



And Environment

Enforcement is Required . . .

State of Tennessee NPDES Permit Number TNS068063

- Section II.C.7.b.v., *“The permittees shall develop and put in practice enforcement procedures for the illicit discharges and improper disposal program.”*
- Section II.C.9.e., *“The City shall improve its construction site inspection and enforcement procedures by carrying out the following: (ii) setting up clearly defined procedures for enforcing ordinances, permits and control plans;”*

And We Haven't Been Doing Enough



The January 2003 Notice of Violation from TDEC recommended strengthening the enforcement actions.

During the May 2004 follow-up inspection, it was “recommended” that Chattanooga begin issuance of Civil Penalties for Non-Compliance in lieu of Court Citations.

Enforcement Actions and Procedures

- Inspections
- Written Warnings
- Show Cause Hearings
- Consent Orders
- Compliance Orders
- Cease and Desist Orders
(Stop Work)
- Notice of Violations
- Court Citations
- Civil Penalties



Court Citations Are Largely Ineffective



- Maximum fine is currently \$50 plus court costs
- Ineffective deterrent to commercial operations

Assessing Civil Penalties

- State of Tennessee Senate Bill No. 68, Section 6, *“A municipality may establish by ordinance or resolution regulating storm water discharges or facilities shall be subject to a civil penalty of not less than fifty (\$50) dollars or more than five thousand (\$5,000) per day for each day of violations.”*
- (d) *“The municipality shall establish a procedure for a review of the civil penalty or damage assessment by either the governing body of the municipality or by a board established to appeals.”*

Whose Responsibility Is It?

Property Owner

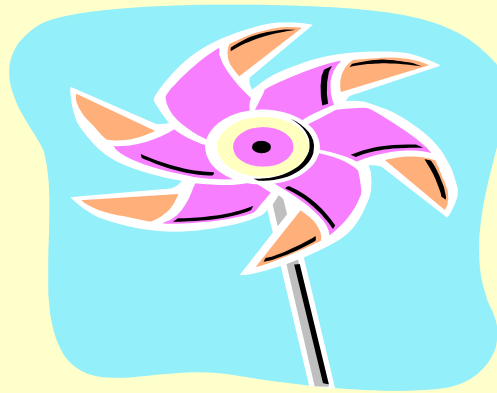
General Contractor

Sub-Contractor

Permit Applicant

Third Party

Designer/Engineer



Land Disturbing Construction Activities



- Commercial
- Subdivision
- Non-Permitted Residential

Defining an Objectionable Color,. . .



This would provide a standard for both the development community and the regulators to work towards. The State of Tennessee Water Quality Control Act only states that the color shall not be “objectionable”



When a Site is Stable, and . . .



...What is An “Act of God” Would Help in Enforcement

- The State of Tennessee requires that erosion and sediment controls be designed to at least the two-year, 24-hour storm event (3.6-inches per 24-hrs.)



Industrial Discharges



- Unpermitted Discharges
- Accidental Discharges

Commercial Activities



- Illegal Disposal
- Leaking Service Lines
- Lack of Good Housekeeping



Residential Activities



- Lawn Waste
- Broken Service Lines
- Improper Disposal
- Illegal Dumping



Enforcement Protocol Examples

Land Disturbing Activities w/o Permit (Aggravates)



- Primarily Directed Towards Contractor but does include Property Owners
- First Offense—Cease and Desist, NOV, Civil Penalty of Cost of Permit
- Second Offense—Cease and Desist, Civil Penalty of \$500 plus Cost of Permit
- Each Additional Offense-- \$1,000 plus Cost of Permit

Failure to Install, Maintain or Use Proper Erosion Controls (Site Specific)



- First Offense—Written Warning Issued to Land Disturbing Permit Applicant and Property Owner plus Cost of Damage to City (Non-Permitted Sites—Building Contractor)
- Second Offense—NOV Issued to Applicant and Owner; Cease and Desist until Repairs are Made; Compliance Order to Submit Monthly Self-Inspection Forms; Plus Two Times Cost of Damage
- Third Offense—Civil Penalty Of \$100 per discharge point plus Three Times Cost of Damage
- Each Additional Offense— Civil Penalty of \$500 per discharge point plus Three Times Cost of Damage

Failure to Maintain or Use Construction Entrances / Exits (Site Specific)

- First Offense—Written Warning Issued to Land Disturbing Permit Applicant (Building Contractor in case of Non-permitted Site)
- Second Offense—NOV issued to Land Disturbing Permit Applicant
- Each Additional Offense—Civil Penalty of \$250 per day per Access Point
- Plus Damages if City Cleans Road, ROW or Drainage System



Illicit Discharges (Non-Residential, Non-Accidental)



- First Offense—NOV issued to responsible company
- Second Offense—
Issuance of Civil Penalty of \$1,000
- Each Additional Offense—Issuance of Civil Penalty of \$2,500

Residential Wastewater Discharge



- First Offense—
Issuance of NOV and
Compliance Order to
Stop Discharge within
ten (10) days
- Failure to Comply—
Court Citation

Enforcement Summary

- Warnings Are Provided Before Civil Penalties Are Applied
- Enforcement Protocol Only Covers Most Common Violations of Ordinance
- Deliberate Violations May Have Higher Civil Penalties
- Ordinance Outlines Procedures For Civil Penalty Issuance
- Request That Board Review, Accept and Recommend Protocol